



March 11, 2005

ENGROSSED SENATE BILL No. 444

DIGEST OF SB 444 (Updated March 9, 2005 4:16 pm - DI 69)

Citations Affected: IC 5-2; IC 10-11; IC 13-11; IC 13-14; IC 25-26; IC 35-33; IC 35-45; IC 35-48; noncode.

Synopsis: Methamphetamine and pharmacy security. Makes ephedrine and pseudoephedrine schedule V controlled substances. Allows a pharmacy to release a record concerning the purchase of a drug containing ephedrine or pseudoephedrine in accordance with state and federal health privacy laws. Requires a law enforcement agency that terminates the operation of a methamphetamine laboratory to report the existence and location of the laboratory to the state police, fire department, and county health department. Requires a law enforcement agency that discovers a child less than 14 years of age at a methamphetamine laboratory to notify the division of family and children. Allows a law enforcement agency to quarantine a property if it is contaminated by chemicals used to manufacture a controlled substance. Requires the department of environmental management to maintain a list of persons certified to inspect or clean up property polluted by chemicals used to manufacture a controlled substance. Allows a court to require a defendant demonstrating a pattern of

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Effective: July 1, 2005.

**Young R Michael, Skinner, Broden,
Server, Bray, Weatherwax, Dillon,
Heinold**

(HOUSE SPONSORS — FRIEND, GRUBB)

January 13, 2005, read first time and referred to Committee on Health and Provider Services.

February 3, 2005, amended, reported favorably — Do Pass.

February 7, 2005, read second time, ordered engrossed.

February 8, 2005, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 8, 2005, read first time and referred to Committee on Courts and Criminal Code.

March 10, 2005, amended, reported — Do Pass.

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repeated illegal use or manufacture of a controlled substance to participate in a drug treatment program as a condition of bail. Adds certain chemical reagents to the list of chemical reagents and precursors used in the manufacture of methamphetamine. Requires a package of a drug containing ephedrine or pseudoephedrine to be: (1) protected by an anti-theft device; and (2) stored in an area that is under constant video monitoring. Allows a pharmacist to refuse to honor a prescription if honoring the prescription would endanger the safety of a person employed by the pharmacy. Requires a pharmacist to notify a physician who issued a prescription if the pharmacist refuses to honor the prescription because honoring the prescription would: (1) be against the best interest of the patient; or (2) be contrary to the health and safety of the patient. Allows the board of pharmacy to refuse to renew, suspend, or revoke a pharmacy permit if the permittee fails to implement security measures designated by the board. Makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom the threat is communicated is an employee of a pharmacy.

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March 11, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 444

A BILL FOR AN ACT to amend the Indiana Code concerning drugs and controlled substances.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 15. Methamphetamine Lab Reporting and Quarantine**

5 **Sec. 1.** As used in this chapter, "certified inspector" means a
6 person certified under IC 13-14-1-15 to inspect and clean property
7 polluted by a contaminant (as defined in IC 13-11-2-42).

8 **Sec. 2.** As used in this chapter, "law enforcement agency" has
9 the meaning set forth in IC 10-11-8-2.

10 **Sec. 3.** As used in this chapter, "methamphetamine laboratory"
11 means a location or facility that:

- 12 (1) is being used;
13 (2) was intended to be used; or
14 (3) has been used;

15 to produce methamphetamine.

16 **Sec. 4.** A law enforcement agency that terminates the operation
17 of a methamphetamine laboratory shall report the existence and

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location of the methamphetamine laboratory to:

- (1) the state police department;
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; and
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

Sec. 5. A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

Sec. 6. (a) A law enforcement agency that discovers a methamphetamine laboratory may quarantine the property, or part of the property, on which the methamphetamine laboratory is located, if the law enforcement agency believes that the property is polluted by a contaminant (as defined in IC 13-11-2-42).

(b) A law enforcement agency that quarantines property under this section shall:

- (1) post signs declaring that the property has been quarantined; and
- (2) to the extent possible, notify all parties, including a lienholder, having an interest in the quarantined property.

Sec. 7. A person having an interest in property that has been quarantined under section 6 of this chapter may, after notifying the law enforcement agency that quarantined the property, have the property inspected or cleaned by a certified inspector.

Sec. 8. A law enforcement agency that has quarantined a property shall remove the quarantine when a certified inspector files a written report with the law enforcement agency:

- (1) describing the results of the certified inspector's inspection;
- (2) detailing cleanup undertaken by the certified inspector, if any; and
- (3) declaring that the property is safe for human use.

Sec. 9. (a) A person having an interest in property that has been quarantined under section 6 of this chapter may file a petition for an order to remove the quarantine with a circuit or superior court in the county in which the property is located. The person shall serve a copy of the petition on the prosecuting attorney.

(b) The court in which a petition is filed under subsection (a)

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shall conduct a hearing concerning the quarantined property. At the hearing, the person who filed the petition has the burden of proving that the property:

(1) was wrongly quarantined; or

(2) has been properly cleaned and is safe for human use.

(c) If the court finds that the property:

(1) was wrongly quarantined; or

(2) has been properly cleaned and is safe for human use;

the court shall order the quarantine removed.

SECTION 2. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The superintendent shall adopt:

(1) guidelines; and

(2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-4.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to:

(1) the department;

(2) the local fire department that serves the area in which the methamphetamine laboratory is located; and

(3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

(1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;

(2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;

(3) must require the department to maintain reports filed under IC 5-2-15-4 in a manner permitting an accurate assessment of:

(A) the number of methamphetamine laboratories located in Indiana in a specified period;

(B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and

(C) any other information that the superintendent

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determines to be relevant; and
 (4) must require a law enforcement agency to report any
 other information that the superintendent determines to be
 relevant.

SECTION 3. IC 10-11-8-4 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The superintendent,
 with input from other law enforcement agencies, may develop and
 maintain a **meth watch** program to inform retailers about illicit
 methamphetamine production, distribution, and use in Indiana.

SECTION 4. IC 13-11-2-42 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. "Contaminant", for
 purposes of environmental management laws, means any solid,
 semi-solid, liquid, or gaseous matter, or any odor, radioactive material,
 pollutant (as defined by the Federal Water Pollution Control Act (33
 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste
 (as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et
 seq.), as in effect on January 1, 1989), any constituent of a hazardous
 waste, or any combination of the items described in this section, from
 whatever source, that:

- (1) is injurious to human health, plant or animal life, or property;
- (2) interferes unreasonably with the enjoyment of life or property;
- or
- (3) otherwise violates:
 - (A) environmental management laws; or
 - (B) rules adopted under environmental management laws.

**The term includes chemicals used in the illegal manufacture of a
 controlled substance (as defined in IC 35-48-1-9) or an immediate
 precursor of a controlled substance, and waste produced from the
 illegal manufacture of a controlled substance or an immediate
 precursor of the controlled substance.**

SECTION 5. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 1, 2005]: Sec. 15. (a) The department shall maintain a list of
 persons certified to inspect and clean property that is polluted by
 a contaminant. The list may specifically note persons with
 particular expertise or experience in the inspection or cleanup of
 property contaminated by chemicals used in the illegal
 manufacture of a controlled substance (as defined in IC 35-48-1-9)
 or by waste produced from the illegal manufacture of a controlled
 substance.

(b) The department may specify by rule that a person who meets
 certain qualifications prescribed by the department is a person

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certified to inspect and clean property that is polluted by a contaminant.

(c) The department may adopt rules under IC 4-22-2:

(1) to implement this section; and

(2) concerning the inspection and remediation of quarantined property.

SECTION 6. IC 25-26-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A pharmacist shall exercise ~~his~~ **the pharmacist's** professional judgment in the best interest of the patient's health when engaging in the practice of pharmacy.

(b) A pharmacist has a duty to honor all prescriptions from a practitioner or from a physician, podiatrist, dentist, or veterinarian licensed under the laws of another state. Before honoring a prescription, the pharmacist shall take reasonable steps to determine whether the prescription has been issued in compliance with the laws of the state where it originated. The pharmacist is immune from criminal prosecution or civil liability if ~~he~~ **the pharmacist**, in good faith, refuses to honor a prescription because, in ~~his~~ **the pharmacist's** professional judgment, the honoring of the prescription would:

(1) be contrary to law;

(2) be against the best interest of the patient;

(3) aid or abet an addiction or habit; ~~or~~

(4) be contrary to the health and safety of the patient; **or**

(5) **endanger the safety of a person employed by the pharmacy or a pharmacist intern or pharmacist extern.**

If a pharmacist refuses to honor a prescription under subdivision (2) or (4), the pharmacist shall notify the physician who issued the prescription not more than twenty-four (24) hours after the prescription is presented to the pharmacy.

(c) A pharmacist:

(1) may refuse to honor a prescription; and

(2) is immune from criminal prosecution and civil liability for refusing to honor the prescription;

if the pharmacist believes in good faith that the person presenting the prescription or the person for whose benefit the prescription is presented is a person who has been convicted of intimidation (as described in IC 35-45-2-1(b)(1)(B)(vi)).

SECTION 7. IC 25-26-13-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18.5. The board may, after a hearing:

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(1) refuse to issue a renewal of;
 (2) suspend; or
 (3) revoke;
 a pharmacy permit if a permittee fails to implement security measures within the time and in the manner designated by the board.

SECTION 8. IC 25-26-17-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. The board shall make available to a law enforcement agency records concerning an Indiana resident's mail order purchase of a drug containing ephedrine or pseudoephedrine from a nonresident pharmacy in accordance with state and federal law.**

SECTION 9. IC 35-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "bail bond" means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of ensuring:

- (1) the person's appearance at the appropriate legal proceeding;
- (2) another person's physical safety; or
- (3) the safety of the community, **including the safety of the community as imperiled by the person's pattern of illegal use or manufacture of a controlled substance.**

SECTION 10. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety, **including the public's safety as imperiled by the person's pattern of illegal use or manufacture of a controlled substance:**

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
 - (D) post a real estate bond.
- (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay

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1 fines, costs, fees, and restitution, if ordered by the court. A portion
 2 of the deposit, not to exceed ten percent (10%) of the monetary
 3 value of the deposit or fifty dollars (\$50), whichever is the lesser
 4 amount, may be retained as an administrative fee. The clerk shall
 5 also retain from the deposit under this subdivision the following:

6 (A) Fines, costs, fees, and restitution as ordered by the court.

7 (B) Publicly paid costs of representation that shall be disposed
 8 of in accordance with subsection (b).

9 (C) In the event of the posting of a real estate bond, the bond
 10 shall be used only to insure the presence of the defendant at
 11 any stage of the legal proceedings, but shall not be foreclosed
 12 for the payment of fines, costs, fees, or restitution.

13 The individual posting bail for the defendant or the defendant
 14 admitted to bail under this subdivision must be notified by the
 15 sheriff, court, or clerk that the defendant's deposit may be
 16 forfeited under section 7 of this chapter or retained under
 17 subsection (b).

18 (3) Impose reasonable restrictions on the activities, movements,
 19 associations, and residence of the defendant during the period of
 20 release.

21 (4) Require the defendant to refrain from any direct or indirect
 22 contact with an individual.

23 (5) Place the defendant under the reasonable supervision of a
 24 probation officer or other appropriate public official.

25 (6) Release the defendant into the care of a qualified person or
 26 organization responsible for supervising the defendant and
 27 assisting the defendant in appearing in court. The supervisor shall
 28 maintain reasonable contact with the defendant in order to assist
 29 the defendant in making arrangements to appear in court and,
 30 where appropriate, shall accompany the defendant to court. The
 31 supervisor need not be financially responsible for the defendant.

32 (7) Release the defendant on personal recognizance unless:

33 (A) the state presents evidence relevant to a risk by the
 34 defendant:

35 (i) of nonappearance; or

36 (ii) to the physical safety of the public; and

37 (B) the court finds by a preponderance of the evidence that the
 38 risk exists.

39 **(8) Require the defendant to enroll in a drug treatment**
 40 **program if the court determines that the defendant has a**
 41 **pattern of repeated illegal use or manufacture of a controlled**
 42 **substance.**

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~~(8)~~ (9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community, **including the safety of the community as imperiled by the person's pattern of illegal use or manufacture of a controlled substance.**

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 11. IC 35-45-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

- (1) that the other person engage in conduct against the other person's will;
- (2) that the other person be placed in fear of retaliation for a prior lawful act; or
- (3) of causing:

(A) a dwelling, a building, or another structure; or

(B) a vehicle;

to be evacuated;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) Class D felony if:

(A) the threat is to commit a forcible felony;

(B) the person to whom the threat is communicated:

(i) is a law enforcement officer;

(ii) is a judge or bailiff of any court;

(iii) is a witness (or the spouse or child of a witness) in any

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pending criminal proceeding against the person making the threat;

(iv) is an employee of a school corporation; ~~or~~

(v) is a community policing volunteer; **or**

(vi) is an employee of a pharmacy (as defined in IC 25-26-13-2), a patron of a pharmacy, or a pharmacist intern or pharmacist extern;

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of the person threatened; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

SECTION 12. IC 35-48-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The controlled substances listed in this section are included in schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following quantities, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

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(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligrams of difenoxin (9168), and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Buprenorphine (9064).

(d) A material, compound, mixture, or preparation that contains a quantity of the following substances, pure or adulterated:

(1) Ephedrine.

(2) Pseudoephedrine.

(e) A pharmacy may release a record relating to the purchase of a material, compound, mixture, or preparation that contains a quantity of ephedrine or pseudoephedrine (pure or adulterated) to a law enforcement officer in accordance with state and federal health privacy laws.

(f) The Indiana board of pharmacy may adopt rules under IC 4-22-2 to implement subsection (e).

SECTION 13. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

(6) Organic solvents.

(7) Hydrochloric acid.

(8) Lithium metal.

(9) Sodium metal.

(10) Ether.

(11) Sulfuric acid.

(12) Red phosphorous.

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- 1 (13) Iodine.
- 2 (14) Sodium hydroxide (lye).
- 3 (15) Potassium dichromate.
- 4 (16) Sodium dichromate.
- 5 (17) Potassium permanganate.
- 6 (18) Chromium trioxide.
- 7 **(19) Benzyl cyanide.**
- 8 **(20) Phenylacetic acid and its esters or salts.**
- 9 **(21) Piperidine and its salts.**
- 10 **(22) Methylamine and its salts.**
- 11 **(23) Isosafrole.**
- 12 **(24) Safrole.**
- 13 **(25) Piperonal.**
- 14 **(26) Hydriodic acid.**
- 15 **(27) Benzaldehyde.**
- 16 **(28) Nitroethane.**
- 17 **(29) Gamma-butyrolactone.**
- 18 **(30) White phosphorus.**
- 19 **(31) Hypophosphorous acid and its salts.**
- 20 **(32) Acetic anhydride.**
- 21 **(33) Benzyl chloride.**
- 22 **(34) Ammonium nitrate.**
- 23 **(35) Ammonium sulfate.**
- 24 **(36) Hydrogen peroxide.**
- 25 **(37) Thionyl chloride.**
- 26 **(38) Ethyl acetate.**
- 27 **(39) Pseudoephedrine hydrochloride.**

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine; pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams~~ **pure or adulterated**, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing more ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine; pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams; pure or adulterated;~~ or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine; pseudoephedrine; or phenylpropanolamine; or a combination of any of these substances exceeding ten (10) grams~~

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pure or adulterated, in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(d) Subsection (b) does not apply to a:

- (1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
- (2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:
 - (A) the location in which the substance is stored;
 - (B) the possession of the substance in a variety of:
 - (i) strengths;
 - (ii) brands; or
 - (iii) types; or
 - (C) the possession of the substance:
 - (i) with different expiration dates; or
 - (ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

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(1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;

(2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;

(3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.

SECTION 14. IC 35-48-4-14.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14.7. (a) As used in this section, "constant video monitoring" means the surveillance by an automated camera that:**

(1) records at least one (1) photograph or digital image every ten (10) seconds;

(2) retains a photograph or digital image for at least seven (7) days;

(3) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(4) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(b) As used in this section, "ephedrine" means pure or adulterated ephedrine.

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1 (c) As used in this section, "pseudoephedrine" means pure or
2 adulterated pseudoephedrine.

3 (d) A person may sell a drug that contains the active ingredient
4 of ephedrine, pseudoephedrine, or both, only if the person complies
5 with the following conditions:

6 (1) The drug is protected by a reliable anti-theft device that
7 uses package tags and detection alarms designed to prevent
8 theft.

9 (2) The drug is stored in an area that is under constant video
10 monitoring, and a sign placed near the drug warns that the
11 area is under constant video monitoring.

12 (e) A person who violates this section commits a Class B
13 infraction. However, the offense is a Class A misdemeanor if the
14 person:

15 (1) has a prior unrelated judgment or conviction under this
16 section; and

17 (2) knowingly or intentionally violates this section.

18 (f) A unit (as defined in IC 36-1-2-23) may not adopt an
19 ordinance after June 30, 2005, that is more stringent than this
20 section.

21 SECTION 15. [EFFECTIVE JULY 1, 2005] IC 35-45-2-1, as
22 amended by this act, and IC 35-48-4-14.7, as added by this act,
23 apply only to offenses committed after June 30, 2005.

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SENATE MOTION

Madam President: I move that Senator Bray be removed as second author of Senate Bill 444.

BRAY

SENATE MOTION

Madam President: I move that Senator Skinner be added as second author and Senator Bray be added as coauthor of Senate Bill 444.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senator Weatherwax be added as coauthor of Senate Bill 444.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senator Dillon be added as coauthor of Senate Bill 444.

YOUNG R MICHAEL

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 444, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 1, delete "of" and insert "**by**".

Page 2, delete lines 18 through 20.

Page 2, line 21, delete "(f)" and insert "**(e)**".

Page 2, delete lines 23 through 27.

Page 2, line 28, delete "(h)" and insert "**(f)**".

Page 2, line 28, delete "single ingredient".

Page 2, line 28, after "drug" insert "**that contains the active ingredient of ephedrine, pseudoephedrine, or both,**".

Page 2, delete lines 30 through 39.

Page 2, line 40, delete "blister" and insert "**container or**".

Page 2, line 41, delete ":".

Page 2, delete line 42.

Page 3, line 1, delete "(B)".

Run in page 2, line 41 through page 3, line 1.

Page 3, line 34, delete "store" and insert "**stored**".

Page 3, line 37, delete "(j)" and insert "**(g)**".

Page 3, after line 42, begin a new paragraph and insert:

"(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after June 30, 2005, that is more stringent than this section."

and when so amended that said bill do pass.

(Reference is to SB 444 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Heinold be added as coauthor of Engrossed Senate Bill 444.

YOUNG R MICHAEL

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 444, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning drugs and controlled substances.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 15. Methamphetamine Lab Reporting and Quarantine

Sec. 1. As used in this chapter, "certified inspector" means a person certified under IC 13-14-1-15 to inspect and clean property polluted by a contaminant (as defined in IC 13-11-2-42).

Sec. 2. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

Sec. 3. As used in this chapter, "methamphetamine laboratory" means a location or facility that:

- (1) is being used;
- (2) was intended to be used; or
- (3) has been used;

to produce methamphetamine.

Sec. 4. A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

- (1) the state police department;
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; and
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

Sec. 5. A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

Sec. 6. (a) A law enforcement agency that discovers a methamphetamine laboratory may quarantine the property, or

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part of the property, on which the methamphetamine laboratory is located, if the law enforcement agency believes that the property is polluted by a contaminant (as defined in IC 13-11-2-42).

(b) A law enforcement agency that quarantines property under this section shall:

- (1) post signs declaring that the property has been quarantined; and
- (2) to the extent possible, notify all parties, including a lienholder, having an interest in the quarantined property.

Sec. 7. A person having an interest in property that has been quarantined under section 6 of this chapter may, after notifying the law enforcement agency that quarantined the property, have the property inspected or cleaned by a certified inspector.

Sec. 8. A law enforcement agency that has quarantined a property shall remove the quarantine when a certified inspector files a written report with the law enforcement agency:

- (1) describing the results of the certified inspector's inspection;
- (2) detailing cleanup undertaken by the certified inspector, if any; and
- (3) declaring that the property is safe for human use.

Sec. 9. (a) A person having an interest in property that has been quarantined under section 6 of this chapter may file a petition for an order to remove the quarantine with a circuit or superior court in the county in which the property is located. The person shall serve a copy of the petition on the prosecuting attorney.

(b) The court in which a petition is filed under subsection (a) shall conduct a hearing concerning the quarantined property. At the hearing, the person who filed the petition has the burden of proving that the property:

- (1) was wrongly quarantined; or
- (2) has been properly cleaned and is safe for human use.

(c) If the court finds that the property:

- (1) was wrongly quarantined; or
- (2) has been properly cleaned and is safe for human use;

the court shall order the quarantine removed.

SECTION 2. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The superintendent shall adopt:

- (1) guidelines; and
- (2) a reporting form or a specified electronic format, or both; for the report of a methamphetamine laboratory by a law

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enforcement agency under IC 5-2-15-4.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to:

- (1) the department;
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; and
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located;

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

- (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;
- (2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;
- (3) must require the department to maintain reports filed under IC 5-2-15-4 in a manner permitting an accurate assessment of:
 - (A) the number of methamphetamine laboratories located in Indiana in a specified period;
 - (B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and
 - (C) any other information that the superintendent determines to be relevant; and
- (4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 3. IC 10-11-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The superintendent, with input from other law enforcement agencies, may develop and maintain a **meth watch** program to inform retailers about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 4. IC 13-11-2-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. "Contaminant", for purposes of environmental management laws, means any solid, semi-solid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste

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(as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1989), any constituent of a hazardous waste, or any combination of the items described in this section, from whatever source, that:

- (1) is injurious to human health, plant or animal life, or property;
- (2) interferes unreasonably with the enjoyment of life or property;
- or
- (3) otherwise violates:
 - (A) environmental management laws; or
 - (B) rules adopted under environmental management laws.

The term includes chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) or an immediate precursor of a controlled substance, and waste produced from the illegal manufacture of a controlled substance or an immediate precursor of the controlled substance.

SECTION 5. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) The department shall maintain a list of persons certified to inspect and clean property that is polluted by a contaminant. The list may specifically note persons with particular expertise or experience in the inspection or cleanup of property contaminated by chemicals used in the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) or by waste produced from the illegal manufacture of a controlled substance.**

(b) The department may specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant.

(c) The department may adopt rules under IC 4-22-2:

- (1) to implement this section; and**
- (2) concerning the inspection and remediation of quarantined property.**

SECTION 6. IC 25-26-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16. (a) A pharmacist shall exercise his the pharmacist's professional judgment in the best interest of the patient's health when engaging in the practice of pharmacy.**

(b) A pharmacist has a duty to honor all prescriptions from a practitioner or from a physician, podiatrist, dentist, or veterinarian licensed under the laws of another state. Before honoring a prescription, the pharmacist shall take reasonable steps to determine

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whether the prescription has been issued in compliance with the laws of the state where it originated. The pharmacist is immune from criminal prosecution or civil liability if ~~he~~, **the pharmacist**, in good faith, refuses to honor a prescription because, in ~~his~~ **the pharmacist's** professional judgment, the honoring of the prescription would:

- (1) be contrary to law;
- (2) be against the best interest of the patient;
- (3) aid or abet an addiction or habit; ~~or~~
- (4) be contrary to the health and safety of the patient; **or**
- (5) endanger the safety of a person employed by the pharmacy or a pharmacist intern or pharmacist extern.**

If a pharmacist refuses to honor a prescription under subdivision (2) or (4), the pharmacist shall notify the physician who issued the prescription not more than twenty-four (24) hours after the prescription is presented to the pharmacy.

(c) A pharmacist:

- (1) may refuse to honor a prescription; and**
- (2) is immune from criminal prosecution and civil liability for refusing to honor the prescription;**

if the pharmacist believes in good faith that the person presenting the prescription or the person for whose benefit the prescription is presented is a person who has been convicted of intimidation (as described in IC 35-45-2-1(b)(1)(B)(vi)).

SECTION 7. IC 25-26-13-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 18.5. The board may, after a hearing:**

- (1) refuse to issue a renewal of;**
- (2) suspend; or**
- (3) revoke;**

a pharmacy permit if a permittee fails to implement security measures within the time and in the manner designated by the board.

SECTION 8. IC 25-26-17-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. The board shall make available to a law enforcement agency records concerning an Indiana resident's mail order purchase of a drug containing ephedrine or pseudoephedrine from a nonresident pharmacy in accordance with state and federal law.**

SECTION 9. IC 35-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. As used in this**

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chapter, "bail bond" means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of ensuring:

- (1) the person's appearance at the appropriate legal proceeding;
- (2) another person's physical safety; or
- (3) the safety of the community, **including the safety of the community as imperiled by the person's pattern of illegal use or manufacture of a controlled substance.**

SECTION 10. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety, **including the public's safety as imperiled by the person's pattern of illegal use or manufacture of a controlled substance:**

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
 - (D) post a real estate bond.
- (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:
 - (A) Fines, costs, fees, and restitution as ordered by the court.
 - (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
 - (C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be

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forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require the defendant to enroll in a drug treatment program if the court determines that the defendant has a pattern of repeated illegal use or manufacture of a controlled substance.

~~(8)~~ **(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community, including the safety of the community as imperiled by the person's pattern of illegal use or manufacture of a controlled substance.**

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff

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may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 11. IC 35-45-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

- (1) that the other person engage in conduct against the other person's will;
- (2) that the other person be placed in fear of retaliation for a prior lawful act; or
- (3) of causing:
 - (A) a dwelling, a building, or another structure; or
 - (B) a vehicle;
 to be evacuated;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

- (1) Class D felony if:
 - (A) the threat is to commit a forcible felony;
 - (B) the person to whom the threat is communicated:
 - (i) is a law enforcement officer;
 - (ii) is a judge or bailiff of any court;
 - (iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;
 - (iv) is an employee of a school corporation; ~~or~~
 - (v) is a community policing volunteer; **or**
 - (vi) is an employee of a pharmacy (as defined in IC 25-26-13-2), a patron of a pharmacy, or a pharmacist intern or pharmacist extern;**
 - (C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or
 - (D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and
- (2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an

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intention to:

- (1) unlawfully injure the person threatened or another person, or damage property;
- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule;
- (7) falsely harm the credit or business reputation of the person threatened; or
- (8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

SECTION 12. IC 35-48-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The controlled substances listed in this section are included in schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following quantities, which shall include one **(1)** or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
- (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
- (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
- (6) Not more than 0.5 milligrams of difenoxin (9168), and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Buprenorphine (9064).

(d) A material, compound, mixture, or preparation that contains a quantity of the following substances, pure or adulterated:

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(1) Ephedrine.

(2) Pseudoephedrine.

(e) A pharmacy may release a record relating to the purchase of a material, compound, mixture, or preparation that contains a quantity of ephedrine or pseudoephedrine (pure or adulterated) to a law enforcement officer in accordance with state and federal health privacy laws.

(f) The Indiana board of pharmacy may adopt rules under IC 4-22-2 to implement subsection (e).

SECTION 13. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.
- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.
- (19) Benzyl cyanide.**
- (20) Phenylacetic acid and its esters or salts.**
- (21) Piperidine and its salts.**
- (22) Methylamine and its salts.**
- (23) Isosafrole.**
- (24) Safrole.**
- (25) Piperonal.**
- (26) Hydriodic acid.**
- (27) Benzaldehyde.**

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- (28) Nitroethane.
- (29) Gamma-butyrolactone.
- (30) White phosphorus.
- (31) Hypophosphorous acid and its salts.
- (32) Acetic anhydride.
- (33) Benzyl chloride.
- (34) Ammonium nitrate.
- (35) Ammonium sulfate.
- (36) Hydrogen peroxide.
- (37) Thionyl chloride.
- (38) Ethyl acetate.
- (39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams~~ **pure or adulterated**, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams;~~ **pure or adulterated;** or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of any of these substances exceeding ten (10) grams~~ **pure or adulterated**, in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

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(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(d) Subsection (b) does not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or

(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

- (A) the location in which the substance is stored;
- (B) the possession of the substance in a variety of:
 - (i) strengths;
 - (ii) brands; or
 - (iii) types; or
- (C) the possession of the substance:
 - (i) with different expiration dates; or
 - (ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

- (1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;
- (2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;
- (3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) two (2) or more chemical reagents or precursors with intent to

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manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony."

Page 1, line 3, delete "This section does not".

Page 1, delete lines 4 through 16.

Page 1, line 17, delete "(b)".

Page 1, run in lines 3 through 17.

Page 2, line 5, delete "seventy-two (72) hours;" and insert "**seven (7) days;**".

Page 2, line 10, delete "(c)" and insert "**(b)**".

Page 2, delete lines 12 through 17.

Page 2, line 18, delete "(e)" and insert "**(c)**".

Page 2, line 20, delete "(f)" and insert "**(d)**".

Page 2, delete lines 23 through 42.

Page 3, delete lines 1 through 9.

Page 3, line 10, delete "(ii)", begin a new line block indented and insert:

"(1)".

Page 3, delete lines 13 through 15.

Page 3, line 16, delete "(iv)", begin a new line block indented and insert:

"(2)".

Page 3, line 19, delete "(g)" and insert "**(e)**".

Page 3, line 25, delete "(h)" and insert "**(f)**".

Page 3, line 28, after "2005]" insert "**IC 35-45-2-1, as amended by this act, and**".

Page 3, line 29, delete "applies" and insert "**apply**".

Page 3, line 29, delete "an offense" and insert "**offenses**".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 444 as printed February 4, 2005.)

ULMER, Chair

Committee Vote: yeas 11, nays 1.

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